



Senate

General Assembly

File No. 273

February Session, 2006

Substitute Senate Bill No. 462

Senate, March 31, 2006

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING A FAIR SHARE HEALTH CARE SURCHARGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) As used in sections 1 to 3,
2 inclusive, of this act:

3 (1) "Covered employer" means an employer that employs five
4 thousand or more employees in the state and whose primary business
5 operation is as a retailer included in the North American Industry
6 Classification System Code 44-45 (Retail Trade); and

7 (2) "Employer" means an employer that is subject to chapter 567 of
8 the general statutes, excluding the state, any political subdivision of
9 the state or any quasi-public agency.

10 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) On and after January 1,
11 2007, and annually thereafter, all covered employers shall pay a Fair
12 Share Health Care Surcharge to the Labor Commissioner in an amount

13 equal to two dollars and fifty cents, indexed annually to the medical
14 care component of the consumer price index for all urban consumers,
15 multiplied by the total number of hours worked by each employee
16 during any year for which the surcharge applies, to a maximum of
17 forty hours per week worked for each employee.

18 (b) Each covered employer providing health benefits to its
19 employees or making payments to employees in lieu of health benefits
20 declined by such employees shall receive a credit against the entirety
21 of the surcharge due under subsection (a) of this section. The amount
22 of such credit shall be the employer's cost to provide "medical care" as
23 defined in Section 213(d) of the Internal Revenue Code of 1986, or any
24 subsequent corresponding internal revenue code of the United States,
25 as from time to time amended.

26 (c) Each covered employer shall pay the Fair Share Health Care
27 Surcharge, reduced by any credit allowable under subsection (b) of this
28 section, to the Labor Commissioner not later than thirty days after the
29 end of each calendar year, or the end of any other period as
30 determined by said commissioner, for which said surcharge is due. All
31 amounts collected under this section shall be deposited into the
32 account established in subsection (d) of this section.

33 (d) There is established, within the General Fund, a separate and
34 nonlapsing account to be known as the "fair share health care account".
35 Said account shall contain any moneys required by law to be deposited
36 in the account. Investment earnings credited to the assets of the
37 account shall become part of the assets of the account. Any balance
38 remaining in the account at the end of any fiscal year shall be carried
39 forward for the fiscal year next succeeding. The moneys in said
40 account shall be used to defray the costs to the state of providing
41 health care coverage under the HUSKY Plans to employees of covered
42 employers. Any funds in excess of those needed for such purpose shall
43 be used to defray additional state expenses for covering uninsured or
44 underinsured patients.

45 (e) Any covered employer that fails to pay the Fair Share Health

46 Care Surcharge, reduced by any credit allowable under subsection (b)
47 of this section, shall be liable for interest on such amount computed at
48 the rate of one and one-fourth per cent per month or fraction thereof
49 from the date when said surcharge became due and payable.

50 (f) No employer may deduct any amount paid under this section
51 from the wages of any employee.

52 (g) Any new employer or existing employer that previously was not
53 subject to the provisions of subsection (a) of this section shall, not later
54 than one month after the date it becomes a covered employer subject to
55 said subsection (a), begin complying with the provisions of said
56 subsection (a).

57 (h) Any existing employer previously subject to the provisions of
58 subsection (a) of this section, but no longer subject to said subsection
59 (a), shall notify the Labor Commissioner, in a manner prescribed by
60 said commissioner, not later than fifteen days after such change before
61 discontinuing compliance with the provisions of said subsection (a).

62 Sec. 3. (NEW) (*Effective October 1, 2006*) Each covered employer shall
63 keep, in accordance with regulations adopted by the Labor
64 Commissioner, at the place of employment for a period of three years a
65 true and accurate record of the health insurance benefits provided by
66 the employer to its employees during such period, including records
67 showing the cost to the employer of providing such benefits, and of
68 amounts paid by the employer to employees in lieu of health insurance
69 benefits declined by such employees, and shall furnish to the
70 commissioner or an authorized representative, upon demand, a sworn
71 statement of the same. Notwithstanding the provisions of this section,
72 no employer shall be required to disclose individually identifiable
73 health information about any employee or any other information in
74 violation of the federal Health Insurance Portability and
75 Accountability Act, as amended from time to time, or of the provisions
76 of 45 CFR Parts 160 and 164, as amended from time to time.

77 Sec. 4. (NEW) (*Effective October 1, 2006*) The Labor Commissioner

78 shall adopt regulations, in accordance with the provisions of chapter
79 54 of the general statutes, to carry out the purposes of sections 1 to 3,
80 inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	New section

LAB *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Resources of the General Fund	GF - Revenue Gain	Significant	Significant
Department of Social Services	GF - Savings	Significant	Significant
Labor Department	GF - None	See Below	See Below

Municipal Impact: None

Explanation

This bill requires all retail employers with more than 5,000 employees in the state to annually pay a new surcharge. Such employers will have to pay the state \$2.50 per employee, per hour worked. This annual surcharge is reduced by the employer's cost to provide medical care for its employees. The revenue generated by this surcharge is deposited into a new separate, non-lapsing account that will be used to defray the cost of providing HUSKY health coverage to employees of covered employers.

Based upon a preliminary analysis, it appears that at least two retailers in the state employ more than 5,000 people: Stop and Shop (15,000) and Wal-Mart (9,050). It is not known at this time how much these companies currently spend on medical care for employees. Based on the assumptions in the following table, this surcharge would generate approximately \$75 million in FY07, less any credits for medical care already provided to employees.

	Employee s	Charge	Hrs/Week	Weeks	Total
Stop & Shop	15,000	\$2.50	25	50	\$46,875,000

Wal-Mart	9,050	\$2.50	25	50	\$28,281,250
TOTAL					\$75,156,250

This revenue estimate may change based upon: 1) a change in the number of eligible employers; 2) changes in the number of employees at the eligible employers; and/or 3) changes in the credits claimed for medical care provided by the employers.

Any revenue received from this surcharge will offset Department of Social Services' expenditures under the HUSKY program. As the net revenue generated by the surcharge is not known, the resulting offset of required HUSKY General Fund appropriations is not known, but is expected to be significant.

The bill requires the Department of Labor to adopt regulations to implement the provisions outlined in the bill. The increased workload associated with any additional complaints due to the provisions in the bill can be handled within agency resources.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the potential changes outlined above as well as an inflation factor contained in the bill on the surcharge. The \$2.50 surcharge will be indexed annually to the medical care component of the consumer price index for urban consumers. The index has an average increase of 4.4% over the past five years.

OLR Bill Analysis**sSB 462****AN ACT CONCERNING A FAIR SHARE HEALTH CARE SURCHARGE.****SUMMARY:**

This bill makes all retail employers in the state with 5,000 or more employees subject to a "Fair Share Health Care Surcharge" as of January 1, 2007. This means covered employers must pay the labor commissioner a surcharge of \$2.50 for each employee hour worked to a maximum of 40 hours a week.

Covered employers providing health benefits to their employees, or making payments to employees in lieu of health benefits the employee declines, receive a credit against the surcharge. The amount of the credit is the employer's cost to provide medical care as defined in the Internal Revenue Code.

Money raised from the surcharge helps pay for the state's HUSKY health care plans with any excess helping defray state expenses for covering uninsured or underinsured patients.

The bill creates a penalty for any employer that fails to pay the surcharge. The penalty is 1.25% interest on the amount due per month or fraction of a month from the date when the surcharge was due. It also requires the labor commissioner to adopt regulations to implement its provisions.

EFFECTIVE DATE: October 1, 2006

COVERED EMPLOYERS

The bill defines a "covered employer" as one that employs 5,000 or

more employees in the state and whose primary business operation is a retailer included in the North American Industry Classification System Code, 44-45 (retail trade). This definition of retail establishments includes: department stores, discount department stores, warehouse clubs and supercenters, supermarkets, car dealerships, furniture and home furnishings stores, building material and garden supply dealers, health and personal care stores, gas stations, clothing stores, miscellaneous store retailers, and non-store retailers.

SURCHARGE AND ANNUAL INDEXING

The surcharge is \$2.50 for each employee hour worked to a maximum of 40 hours a week during any year the surcharge applies (for a full-time employee the surcharge would be \$5,200 annually). The surcharge is indexed annually to the medical care component of the consumer price index for all urban consumers.

SURCHARGE CREDIT

Each covered employer providing health benefits to its employees or making payments to employees in lieu of health benefits the employees decline will receive a credit against the entire surcharge due under the bill. The amount of the credit is the employer's cost to provide "medical care" as defined in the federal tax law (IRC) (§ 213(d)). This means employer medical expenses during a taxable year that are not compensated for by insurance or some other means, but excludes surgery or procedures that are not considered necessary (i.e., cosmetic).

PAYMENT AND USE OF SURCHARGE FUNDS

Each covered employer must pay the surcharge, after reductions for any credit, not later than 30 days after the end of the calendar year, or the end of any other period determined by the labor commissioner.

Any new employer or existing employer not previously covered under the bill that becomes a "covered employer" must begin complying with the bill's provisions within one month. Employers

who cease being “covered employers” must notify the labor commissioner within 15 days of its change of status.

Money from the surcharge will be placed in a separate nonlapsing account in the General Fund called the “Fair Share Health Care Account.” The money must be used to defray the costs of the state in providing health care coverage under the HUSKY Plans to employees of covered employers. Any funds in excess of those needed for that purpose must be used to defray additional state expenses for covering uninsured or underinsured patients.

RECORD KEEPING

The bill also requires covered employers to keep, for three years, a record of the health insurance benefits they provided. This must include the employer’s cost for providing the benefits and any amounts the employer paid to employees in lieu of health benefits declined by the employees. The employer must provide the labor commissioner, upon demand, with a sworn statement of the records.

Under the bill, no employer is required to disclose individually identifiable health information about any employee or any other information in violation of the federal Health Insurance Portability and Accountability Act or related federal regulations (45 CFR Parts 160 and 164).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/14/2006)